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THE WEST VIRGINIA BAR EXAMINATIONS 1915-1919

The following is a portion of the report recently submitted by the State Board of Law Examiners to the Supreme Court of Appeals and here published with the consent of the Court.

October 8, 1919.

TO THE SUPREME COURT OF APPEALS OF WEST VIRGINIA:

The Board of Law Examiners submits the following report for the period from July 1, 1915 to October 1, 1919. It should be noted that the last report, which was submitted in the fall of 1916, covered the period from July 1, 1914 to October 1, 1916; thus the period from July 1, 1915 to October 1, 1916 is duplicated by this report. The reason for this duplication is that the present system of giving the examination by the group method, or the New York method as it is sometimes called, first went into operation with the September, 1915, examination, and it therefore seems that the conclusions which are deduced in this report will be more trustworthy if based upon results reached during the entire period the present system of examination has been in use.

During the period covered by this report ten bar examinations have been held, as follows:

September 8, 9 and 10, 1915
January 31, February 1 and 2, 1916
June 20, 21 and 22, 1916
September 13, 14 and 15, 1916
March 14, 15 and 16, 1917
September 12, 13 and 14, 1917
March 13 and 14, 1918
September 11 and 12, 1918
March 12 and 13, 1919
September 10 and 11, 1919

It should be noted that the last four examinations cover periods of two days each while those prior to that time cover periods of three days each.

At the September, 1915, examination the Board consisted of J. R. Trotter, O. L. McCaskill and H. C. Jones. During the Jan-

uary, 1916, and June, 1916, examinations the Board consisted of the three men named above and D. C. Howard, J. W. Simonton and T. P. Hardman. At the September, 1916, examination O. L. McCaskill was succeeded by L. Carlin. D. C. Howard ceased to be a member of the Board after the March, 1917, examination and since that time the Board has consisted of five members, *viz.*, H. C. Jones, J. R. Trotter, J. W. Simonton, T. P. Hardman and L. Carlin.

During the time covered by this report 115 men have taken the bar examination. The following table shows the number which took each examination, the number who passed, the number who passed part of the examination, and the number who passed no part of the examination.

	Number taking examination	Number passed entire examination	Number passed part examination	Number passed no part examination
September, 1915.....	32	15 (47%)	5 (15%)	12 (38%)
January, 1916.....	23	14 (61%)	2 (9%)	7 (30%)
June, 1916.....	16	5 (31%)	4 (25%)	7 (44%)
September, 1916.....	14	10 (71%)	1 (7%)	3 (22%)
March, 1917.....	14	7 (50%)	1 (7%)	6 (43%)
September, 1917.....	17	11 (65%)	0	6 (35%)
March, 1918.....	10	4 (40%)	1 (10%)	5 (50%)
September, 1918.....	10	5 (50%)	3 (30%)	2 (20%)
March, 1919.....	10	5 (50%)	1 (10%)	4 (40%)
September, 1919.....	18	13 (72%)	0	5 (28%)
	<hr/> 164	<hr/> 89	<hr/> 18	<hr/> 56
Duplicates	49		14	34
	<hr/>	<hr/>	<hr/>	<hr/>
Entire period.....	115	89 (77%)	4 (3%)	22 (19%)

From the above table it will be seen that over 77% of those who took the examination passed, that 3% passed one of the two groups and that 19% completely failed to pass the examination.*

The table which follows shows that of the eighty-nine men who passed the entire examination, 67 passed with only one attempt, 17 passed at a second attempt, 4 passed at the third attempt and one at the fourth. No one passed after a fourth attempt. Of the four who have passed one group, two made only one attempt, one made two attempts and one made three attempts.

*Without doubt, some of those who only passed one group or failed entirely will pass at subsequent examinations, thus reducing the percentage of failures.

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Of the 22 who completely failed to pass the examination, 15 made only one attempt, 3 made two attempts, one made three attempts, one made five attempts, one six attempts and one made seven attempts. Some of these probably will pass at subsequent examinations.

Passed at first attempt	67
“ “ second “	17
“ “ third “	4
“ “ fourth “	1
	—
Total passed	89
Failed—one effort	15
“ two efforts	3
“ three “	1
“ five “	1
“ six “	1
“ seven “	1
	—
Total failed	22
Passed one group—one effort	2
“ “ “ two efforts	1
“ “ “ three “	1
	—
Total passed one group	4
	—
Total taking bar examination	115

Those who totally failed do not include three who had no dealings with the Board of Law Examiners but endeavored through the Legislature to procure licenses to practice law. The conclusion which may be reached from these statistics is that those who pass, normally succeed at the first effort, and that any effort subsequent to the second effort is not usually crowned with success. In fact those who are deficient in their preliminary academic training or have only office training very often show no improvement at successive examinations. This has been particularly noticeable in the case of the three men who failed in five, six and seven examinations respectively, all of whom studied privately or in law offices and two of whom were permitted to take the examination without a high school education, owing to their having been first admitted to the examination prior to January 1, 1916.

RECORD OF THOSE TRAINED BY STUDY AS RESIDENT STUDENTS
IN LAW SCHOOLS COMPARED WITH THOSE TRAINED
BY OTHER MEANS

During the period covered by this report, 89 men have been given certificates of having passed the bar examination and 49 have completed the course of study at the College of Law at West Virginia University and therefore were admitted under the statute without taking the bar examination, making a total of 137 after a deduction of one duplicate for a man who passed the bar examination and later received his law degree from the University.

Of the 115 different men who attempted to pass the examination during the period, 85 received their training as resident students in law schools while 30 received their training otherwise. If one add to the law school men who took the bar examination (85) those who completed the law course at West Virginia University (49), it will be seen that of the 163 who sought admission to the bar, 133 (82%) were law school trained and only 30 (18%) were otherwise trained. If one add the 49 who completed the course at the College of Law to the 75 law school men who passed the bar examination, it appears that of the 137 who were entitled to practice, 123 (90%) were law school men.

Eliminating from consideration the 49 who completed the three-year course at West Virginia University and thus were entitled to admission without passing the bar examination, it is possible that some light may be thrown upon the respective merits of law school training versus law office training as shown by the bar examination results when studied from two angles:

(1) Percentage of law school men who passed compared with the percentage of law office men who passed.

	Number took examination	Number passed examination	Number passed part examination	Number failed examination
Law school men.....	85	75 (88%)	3 (4%)	7 (8%)
Others	30	14 (47%)	1 (3%)	15 (50%)
Total	115	89 (77%)	4 (4%)	22 (19%)

This shows that 88% of the law school men passed the bar examination and only 8% absolutely failed as compared with only 47% of successful candidates and 50% of absolute failures among those otherwise trained.

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(2) Percentage of law school men who passed at their first attempt compared with the percentage of law office men who passed at their first attempt.

	Law school men	Others
Number passed first examination.....	63 (84%)	5 (36%)
Number passed second examination.....	10 (13%)	7 (50%)
Number passed third or later exam.....	2 (3%)	2 (14%)
Total	75	14

This shows that 84% of the law school men who passed were successful at the first examination they took while this was true of only 36% of the men trained by other methods.

The following table shows the records of men trained in the various law schools. The twelve men credited to the College of Law of West Virginia University are non-graduates who had not completed the three-year course of study at West Virginia University but had combined with it law office study in most instances and who therefore were required to take the examination. The item marked "Combinations" represents men who took their work at two or more schools and therefore could not properly be credited to any one law school. The figures in parentheses represent the number of individual efforts made by the persons represented.

	Passed	Passed part	Failed
Washington and Lee.....	19 (22)		1 (1)
W. Va. U. (non-grads).....	12 (14)		
Virginia	10 (11)		
Harvard	9 (9)		
Michigan	6 (7)		
Yale	3 (3)	1 (1)	
Valparaiso	2 (4)		3 (3)
National			2 (2)
Georgetown	1 (2)	2 (5)	
George Washington	1 (1)		
Ohio State	1 (1)		
Chicago	1 (1)		
Howard	1 (1)		
Dickinson			1 (2)
Maryland	1 (1)		
Iowa	1 (1)		
Combinations	7 (11)		
	75 (89)	3 (6)	7 (8)
Office, correspondence or private study	14 (26)	1 (2)	15 (34)
Total	89	4	22

This table clearly shows the falsity of the statement sometimes made to the effect that men coming from other law schools than the College of Law of West Virginia University stand small chance of passing the examination at the first attempt. The poor records of the men from two night law schools (Georgetown and National) is noticeable.

THE ACADEMIC AND LAW-STUDY REQUIREMENTS

On May 6, 1915, the Supreme Court of Appeals entered an order providing that after January 1, 1916 a four-year high school course or its academic equivalent must be completed prior to law study and must be followed by three years of law study in a law office or by three years of study as a resident student in an approved law school.

As to whether men possessing these new requirements show any superior ability to pass the bar examination, it is worth while to note that of the 22 who entirely failed to pass the examination during the past four years, 11 were men who lacked either one or both of these requirements either by reason of having been admitted to the examination prior to January 1, 1916, or because of having been admitted to the bar previously in some other state having lower requirements and thus being entitled to take the bar examination under the ruling of the Supreme Court of Appeals of May 13, 1918¹ without possessing a high school education or having studied law for three years as a resident student in a law school or as a student in a law office. Among the 89 who passed the examination there is practically none who did not possess these minimum requirements. The bar examination results, so far as they are a satisfactory test, clearly justify these requirements.

Precedents from other states also lend approval to such requirements. The minimum entrance requirements in any of the 49 law schools which have been granted admission to the Association of American Law Schools in a four-year high school education, which must be followed by three years of successful law study to entitle the student to his degree. In fact, two of the law schools of this Association require a college degree for admission; 6 require three years of college work; 18 require two years of college work; 15 require one year of college work; and only 8 require the minimum

¹25 W. VA. L. Q. 329.

of a high school education. Seventeen of those requiring one or two years of college work are state university law schools.

At the 1918 session of the American Bar Association, the following resolution was adopted:²

“RESOLVED, That the American Bar Association approves the action taken by many of the law schools in acquiring two years of a college course as a condition of admission to their courses of study, and the Association expresses the conviction that this should be the minimum requirement recognized by law schools of the first class.”

In 23 states and two dependencies, a four-year high school course or more is now required as preliminary to law study. These states and dependencies are: Colorado, Connecticut, Delaware, Idaho, Illinois, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Philippines, Porto Rico, Rhode Island, South Carolina, South Dakota, Vermont, Washington, and West Virginia.³

Section 7 of the recommended Standard Rules for Admission to the Bar as adopted by the American Bar Association at its 1918 meeting provides as a minimum academic requirement preliminary to law study that:⁴

“Every candidate should satisfy the board that he has passed the necessary requirements for entrance to the collegiate department of the state university of the candidate’s state, or of such college or colleges as may be approved by the State board of law examiners, or an examination equivalent thereto conducted by the authority of the State.”

Not only is the requirement of a four-year high school course generally recognized as a proper minimum preliminary education, but it is within the reach of the young men of West Virginia. The report of the State Supervisor of High Schools of West Virginia for the school year 1917-18 shows 164 high schools in West Virginia. The attendance in these high schools and in the private, normal and church schools offering high school courses during 1917-18 was 19,094. High school advantages were offered in every county of the state except Calhoun.

²43 A. B. A. PROCEEDINGS 72-73.

³See June, 1918, HANDBOOK ON HIGHER EDUCATION (LAW) of the University of the State of New York.

⁴4 A. B. A. JOURNAL 423; 43 A. B. A. PROCEEDINGS 75.

Possibly the most advanced proposition in legal education during recent years is the unanimous recommendation of the Council on Legal Education made in 1918 to the American Bar Association that the standard rules for admission to the bar include a provision that:⁵

“(8) Every applicant shall be required to have successfully completed the prescribed course of instruction and passed the examinations of a law school, approved by the board, which requires for the completion of its course not less than three years of resident attendance during the day time, or not less than four years of resident attendance if a substantial part or all of the exercises of the school are in the evening.”

This proposed uniform rule provides that the required period of law study be spent in residence in an approved law school and eliminates office study as well as private study from accepted methods of training. This provision was also unanimously recommended by the Section on Legal Education of the American Bar Association in 1916. It is based on the demonstrated fact that law schools of the better type are giving far more thorough training, especially in substantive law, than can be secured by other methods of study, and follows the precedent set by the medical profession in uniformly requiring one who applies for a license to practice medicine to show before admission to the examination that he is a graduate of an approved medical school. The superior training of those educated in law schools of recognized standing as tested by the West Virginia bar examination is clearly shown by the figures previously submitted. (See pages 38, 39). It is the opinion of the Board of Examiners that it would be wise for the Court to add to its present rules a requirement that on and after January 1, 1920, persons admitted to the bar examination must show that at least two of the three years of law study required have been spent by the candidate as a resident student in an approved law school, but provided, however, that the period of law school study required of any particular candidate shall not exceed the period intervening between January 1, 1920, and the date of the examination which the candidate desires to take. The third year, after two years of law school study, can be spent to advantage in a law office, if the candidate prefers. It is for the good of the candidate and of the community in which he may practice that such a requirement be adopted.

⁵⁴ A. B. A. JOURNAL 423.